

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	DATE FILED:
v.	:	CRIMINAL NUMBER
ALBERT FORCELLA	:	VIOLATIONS: 18 U.S.C. § 371 (Conspiracy to defraud healthcare benefit program) - 1 count

INFORMATION

Count One

THE UNITED STATES ATTORNEY CHARGES THAT:

At all times material to this Information:

THE MEDICARE PROGRAM

1. The Department of Health and Human Services (HHS) was a Department of the United States government with responsibilities under federal law for the funding, administration and supervision of certain health care programs including the "Medicare Program."
2. The Medicare Program was designed to provide medical services, medical equipment and supplies to aged, blind and totally disabled individuals (beneficiaries) who qualified under the Social Security Act.
3. The Medicare Part B program was a federally-funded medical insurance program which provided Medicare insurance benefits for individuals aged sixty-five or older and certain individuals who are disabled or handicapped.
4. The Medicare Part B Program paid for durable medical equipment (DME) and supplies provided to eligible beneficiaries.

5. To be entitled to submit claims to Medicare for equipment or services provided to Medicare beneficiaries, a supplier had to complete an application which the supplier certified was true, correct and complete. If Medicare approved the supplier's application, the supplier would be issued a Medicare provider number.

6. Suppliers submitted claims for equipment and services provided to Medicare beneficiaries to one of four companies (carriers) that processed claims for the geographic region of the United States in which the beneficiary resided. Carriers are referred to as Regions A (Northeast), B (Midwest), C (Southeast) and D (West). Each regional company established reimbursement rates for particular products based on product costs in that region, and determined standards for establishing the medical necessity of every product distributed to beneficiaries residing in that region.

7. To be reimbursed by Medicare, a supplier had to submit a claim to Medicare which included the supplier's Medicare provider number. Medicare required that all submitted claims contain truthful information, including the identity of the true supplier of goods or services to the beneficiary. Suppliers could use a billing service to submit claims to Medicare, but billing services were required to submit claims naming the actual supplier who provided a product to the beneficiary.

8. If the regional carrier determined that a supplier had been overpaid, the region notified that supplier that future payments authorized by the region and payable to that supplier would be used to offset the amount Medicare alleged was overpaid on past claims. Medicare did not permit suppliers to avoid having future claims used to offset amounts due to

Medicare by using another supplier's number to submit the claims.

9. Suppliers who disputed an overpayment found by Medicare had to file an appeal to a hearing officer. A company which faced serious financial difficulties if its future claims were used to offset alleged prior overpayments could file a hardship application for relief. If a hearing officer determined on appeal that the supplier was not overpaid for past claims, the supplier was awarded the amount of all offset claims plus interest.

10. Suppliers who were notified by a Medicare carrier that a product was not medically necessary for certain types of patients were not permitted to submit claims to Medicare for that product for that type of patient by using another supplier's Medicare number.

11. Medicare conducted audits of claims in order to determine that supplies were medically necessary and that claims were not fraudulent for some other reason. A supplier was not permitted to use the supplier number of another company in order to avoid scrutiny or audits by Medicare.

12. By law and regulation, suppliers who billed Medicare for goods and services were not permitted to pay kickbacks or fees to individuals or companies in exchange for the referral of business.

THE TRICARE PROGRAM

13. The Department of Defense (DOD), a department of the United States government, was responsible for the administration of the Tricare program.

14. The Tricare program paid for hospital services, medical services, home

health care, durable medical equipment and supplies and other services to civilian dependants of military personnel and retired members of the military who qualified for participation in the program. The United States government provided the majority of the funding of the Tricare Program.

15. By law and regulation, providers who billed Tricare for goods and services were not permitted to pay kickbacks or fees to individuals or companies in exchange for the referral of business.

DEFENDANT AND OTHER COMPANIES AND INDIVIDUALS

16. Geri-Care Orthotics (Geri-Care), located in Tampa, Florida, was a durable medical equipment supplier which was authorized to bill Medicare through its supplier number. Defendant ALBERT FORCELLA was the president of Geri-Care. Steven Santostefano, charged elsewhere, at all times shared in the profits of Geri-Care.

17. DLS Holdings, d/b/a Intramedical (Intramedical), located in Phoenix, Arizona, was a durable medical equipment supplier which was authorized to bill Medicare through its supplier number. This company also prepared and submitted bills to Medicare on behalf of other Medicare suppliers, including Gulf-Coast and Geri-Care. Steven Santostefano was the president of Intramedical. Patrick Schmiederer, charged elsewhere, was the national sales manager of Intramedical and Geri-Care.

18. Southwest Automated Voice Com (Southwest Automated), located in Phoenix, Arizona, was a voice mail company. Steven Santostefano was the president of Southwest Automated.

19. Gulf Coast Support Surfaces (Gulf Coast), located in Tampa, Florida, was a

durable medical equipment supplier which was authorized to bill Medicare through its supplier number. Bradley Buzbee, charged elsewhere, was the president of Gulf Coast.

20. West Coast Orthotics (West Coast), located in California, was a durable medical equipment supplier which was authorized to bill Medicare through its supplier number. Person # 1 known to the United States Attorney (Person # 1) was its president.

21. Chosen Care, located in Bensalem, Pennsylvania, was an undercover home health agency run by federal law enforcement special agents.

22. Pioneer Management Group, located in Alexandria, Virginia, was an undercover management company run by federal law enforcement special agents.

CONSPIRACY

23. From in or about June, 1999, until at least in or about October 2000, in the Eastern District of Pennsylvania and elsewhere, defendant

ALBERT FORCELLA

conspired and agreed with Steven Santostefano, Patrick Schmiederer, Bradley Buzbee, Person #1 and others known to the United States Attorney to:

(1) knowingly and willfully offer, pay and cause to be offered and paid remuneration, that is, kickbacks and bribes, to purchase, lease, order, and arrange for and recommend the purchasing, leasing, and ordering from companies for items for which payment was made in whole and in part under Medicare and Tricare, in violation of Title 42, United States Code, Section 1320a-7b(b)(2)(B);

(2) knowingly and willfully execute and attempt to execute a scheme to

defraud a health care benefit program, that is, Medicare, and to obtain, by means of materially false pretenses, representations, and promises, money and property owned by, and under the control of, Medicare in connection with the delivery of and payment for health care benefits, items, and services, in violation of Title 18, United States Code, Section 1347; and

(3) defraud the United States by impeding, impairing, obstructing and defeating the lawful government functions of the Department of Health and Human Services and the Department of Defense in verifying the validity of claims submitted to Medicare and Tricare in violation of Title 18, United States Code, Section 371.

MANNER AND MEANS

It was a part of the conspiracy that at various times:

24. To obtain payment from Medicare for products supplied by Intramedical and West Coast, to avoid offsets of future Medicare claims, and to avoid Medicare scrutiny or audits, defendant ALBERT FORCELLA, Steven Santostefano, Bradley Buzbee and Person #1 fraudulently used Gulf Coast's Medicare supplier number to submit claims to Medicare, knowing that Gulf Coast was not the supplier of the products which were billed to Medicare.

25. Defendant ALBERT FORCELLA, Steven Santostefano, and Person #1 split the profits from West Coast's Medicare claims which had falsely stated that Gulf Coast was the supplier of those products. Defendant ALBERT FORCELLA and Steven Santostefano also split the profits from Intramedical's Medicare claims which had falsely stated that Gulf Coast was the supplier. Defendant ALBERT FORCELLA and Steven Santostefano paid

Bradley Buzbee a monthly fee for the fraudulent use of Gulf Coast's supplier number.

26. Steven Santostefano directed Intramedical employees and others to alter documents supporting claims that had been submitted to Medicare to reflect falsely that products had been provided by Gulf Coast, knowing that those products had been supplied by Intramedical.

27. At the direction of Steven Santostefano, defendant ALBERT FORCELLA sent checks for the profits from Intramedical and West Coast business that had been billed through Gulf Coast's supplier number to the Southwest Automated account in Arizona.

28. Defendant ALBERT FORCELLA and Steven Santostefano arranged to pay kickbacks for Tricare and Medicare Region A business referred by the undercover company, Chosen Care, in Bensalem, Pennsylvania. Steven Santostefano wrote checks out of the Southwest Automated account to pay those kickbacks to the undercover company.

OVERT ACTS

In furtherance of this conspiracy the following overt acts, among others, were committed in the Eastern District of Pennsylvania and elsewhere:

1. From in or about at least June, 1999, through in or about March 2000, on at least a monthly basis, with the permission of Bradley Buzbee, defendant ALBERT FORCELLA and Steven Santostefano caused claims to be submitted to Medicare Region D using the Gulf Coast supplier number, knowing that those products had actually been supplied by Intramedical or West Coast.

2. From in or about June 1999 through in or about April 2000, on at least a

monthly basis, with the permission of Bradley Buzbee, defendant ALBERT FORCELLA and Steven Santostefano caused claims to be submitted to Medicare Region C using the Gulf Coast supplier number, knowing that those products had actually been supplied by Intramedical or Geri-Care.

3. In or about November 1999, defendant ALBERT FORCELLA offered to pay kickbacks to the undercover special agent who was acting as president of Chosen Care in exchange for Medicare and Tricare business.

4. On or about December 7, 1999, in a telephone conversation with the undercover special agent in Bensalem, Pennsylvania, defendant ALBERT FORCELLA suggested that Bradley Buzbee should travel to Bensalem to assist the undercover agent in generating additional Medicare business and kickbacks.

5. On or about December 13, 1999, during a telephone conversation with the undercover agent in Tampa, Florida, defendant ALBERT FORCELLA suggested that Bradley Buzbee should travel to Bensalem to assist the undercover agent with Medicare business.

6. On or about December 27, 1999, during a telephone conversation with the undercover agent in Bensalem, Pennsylvania, defendant ALBERT FORCELLA told the undercover agent that supplies and billing would be handled through Steven Santostefano and his company, Intramedical.

7. On or about January 27, 2000, during a telephone conversation with the undercover agent in Bensalem, Pennsylvania, defendant ALBERT FORCELLA discussed

splitting the cost of having Bradley Buzbee work with the undercover agent full time at Chosen Care to assist in handling Medicare business.

8. On or about February 10, 2000, during a telephone conversation, Steven Santostefano in Phoenix told Person #2 known to the United States Attorney (Person #2) that Bradley Buzbee had sent Steven Santostefano forty claims for diabetic shoes which had not been billed to Medicare, and also discussed using another supplier number to get the claims paid.

9. On or about February 14, 2000, during a telephone conversation, Steven Santostefano in Phoenix told Person #2 that: Medicare Region D was not paying any claims for Intramedical; Steven Santostefano had submitted Intramedical claims using Bradley Buzbee's supplier number; and Medicare had stopped paying those claims. Steven Santostefano asked Person #2 if Person #2 would submit those claims to Medicare.

10. On or about February 16, 2000, during a telephone conversation, Steven Santostefano in Phoenix told Person #2 that defendant ALBERT FORCELLA and Steven Santostefano had put \$500,000 of claims to Medicare through Bradley Buzbee's supplier number, and that Steven Santostefano was going to attempt to use other companies to submit claims for West Coast.

11. On or about February 17, 2000, during a telephone conversation, Steven Santostefano told Person #2 that Medicare had "popped" Bradley Buzbee's supplier number after four months.

12. From on or about August 1, 1999, through on or about August 12, 2000,

usually on a monthly basis, defendant ALBERT FORCELLA and Steven Santostefano paid Bradley Buzbee approximately \$1,000 per month for the use of Gulf Coast's Medicare supplier number.

13. On or about June 15, 2000, defendant ALBERT FORCELLA wire-transferred \$10,000 from Geri-Care's bank account to Steven Santostefano's Southwest Automated account in Phoenix.

14. On or about June 19, 2000, Steven Santostefano caused a check dated June 16, 2000 for \$2,000 to be delivered to the undercover agent in Bensalem, Pennsylvania as partial payment owed to the undercover agent by defendant ALBERT FORCELLA and Santostefano for kickbacks for Medicare and Tricare business.

15. On or about August 25, 2000, Steven Santostefano sent a check for \$835.51 to the undercover "consultant" in Alexandria, Virginia, for the purpose of having that check forwarded to the undercover agent in Bensalem, Pennsylvania as partial payment for kickbacks for Medicare and Tricare business owed by defendant ALBERT FORCELLA and Santostefano.

16. On or about October 17, 2000, Steven Santostefano discussed kickback payments for Medicare business during a telephone conversation with the undercover agent in Bensalem, Pennsylvania.

In violation of Title 18, United States Code, Section 371.

PATRICK L. MEEHAN
UNITED STATES ATTORNEY